

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 4232 of 1995

Between:

- 1 N.Kotaiah, S/o. Veeraiah.
R/o. Gollaguda, Nalgonda.
- 2 N.Ummaiah, S/o. Veeriah.
R/o. Gollaguda, Nalgonda.
- 3 N.Kedar, S/o. Veeraiah.
R/o. Gollaguda, Nalgonda.

..... PETITIONERS

AND

- 1 The State of A.P., Rep. Secretary to Govt., Municipal Administration & Urban Development Dept., Secretariat, Hyderabad.
- 2 The District Collector, Nalgonda.
- 3 The Chairman, Nalgonda Municipality, Nalgonda.
- 4 The Commissioner, Nalgonda Municipality, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction, more in the nature of Writ of Mandamus, declaring the action of the respondents in laying the 60" wide road to an extent of 1964-69 Sq. yards in Survey No. 565 and 566 of Gollaguda, Nalgonda Town, without acquiring the land under the provisions of the Land Acquisition Act, 1894 and without payment of any compensation to the petitioners as wholly arbitrary, highly illegal, and unconstitutional, being violative of Arts. 14, 31, and 300-A of the Constitution of India, and consequently direct the respondents, to fix and pay the compensation as per present market value under the provisions of the Land Acquisition Act to the petitioners forthwith.

Counsel for the Petitioner: MR.C.YADAGIRI

Counsel for the Respondent No.: GP FOR LAND ACQUISITION

The Court made the following :

ORDER

The present writ petition has been filed by the petitioners to declare the action of the respondents in laying 60 feet wide road to an extent of 1964.69 sq. yards in S.No. 565 and 566 of Gollaguda, Nalgonda Town, without acquiring the land under the provisions of the Land Acquisition Act, 1894 (for short 'the Act') and without paying of any compensation to the petitioners as arbitrary and illegal and to consequently direct the respondents to fix and pay the compensation as per the market value prevailing then, under the provisions of the Act.

The case of the petitioners as per the affidavit filed by the first petitioner is that the lands of the petitioners are situated in the middle of Nalgonda town, that the local Municipality authorities have suddenly decided to lay 60 feet wide master plan road under the development of Master Plan Road scheme in Nalgonda Municipality and that the first respondent seems to have sanctioned the said scheme vide G.O. Ms. No. 142, M.A., Dt, 14-3-1986 which was approved by the Town Planning Authority through letter No. 14365/85-F, dated 28-2-1986. As per the said formation of 60 feet wide road, 1964.69 sq. Yards of land of the petitioners would be affected as the road would go through the middle of their land. The petitioners further contend that no notice was served on them and as there was no notification under Section 4(1) of the Act and their land was not acquired under the provisions of the said Act, petitioners along with others obstructed the work. On that the Municipality through its resolution No. 519, dated 31-7-1990 had unanimously resolved to pay compensation to them as may be decided by the Joint Collector, but in vain.

First petitioner further contends that he himself voluntarily entered into an agreement with the Municipality on 6.12.1990 to acquire his lands under the process of the Act and pay the compensation and handed over the land to an extent of 1964.69 sq.

yards from his lands to lay the road. He further contends that he submitted an application to the 4th respondent to pay Rs.30,000/- in advance to take protective measures to safeguard his crops in the said land.

It is further contended that the necessary proposals for fixing of the rate of compensation have been submitted to the Revenue Divisional Officer, Nalgonda by the 4th respondent herein through his letter No. 228/E/90-MP, dated 11.2.1991. The Revenue Divisional Officer requested the 4th respondent to send Rs.5,000/- by way of a draft towards the publication charges of draft notification and draft declaration and after some time, the Revenue Divisional Officer returned the proposals submitted by the 4th respondent for fresh submission of the same after rectifying the defects crept therein, along with D.D. for Rs.5,000/- towards publication charges and on that the 4th respondent resubmitted the Form – I duly rectifying the defects to the Revenue Divisional Officer, but the publication charges have been paid by the Municipality. All the time, the petitioners were with a fond hope that the respondents would pay them the compensation by following the due process of law as was prescribed by the Act, but it was not done so and the road was made open to the traffic. Petitioners made several requests to all the authorities to follow the procedure in acquiring the land and to pay them the compensation accordingly, but as there was no response from the respondents, the petitioners approached the Court with the present writ petition.

The material paper annexed to the writ petition i.e. Annexure-P.4 goes to show that the Revenue Divisional Officer, Nalgonda by his letter No. D/380/91, dated 28-2-1991 addressed to the 4th respondent informing that the District Collector, Nalgonda had approved the proposals sent by the 4th respondent for acquiring the land in question and the said proposals were sent to the office of the Revenue Divisional Officer as there were certain defects for the draft publication, and draft declaration. Annexure-P.5 of the material papers annexed to the writ petition goes to show that the first petitioner is willing to surrender his land if suitable compensation is paid to him for acquiring the land in question and in that he sought Rs.30,000/- towards advance to take all protective measures till the actual compensation is fixed by the government. Annexure-P.9 of the material papers annexed to the writ petition goes to show that there seems to be a resolution passed by the Nalgonda Municipality on 31.7.1990 to pay compensation as per the rate fixed by the Joint Collector to the

lands of first petitioner and if municipal permission is there to the house of one K. Bala Brahmachary.

Heard the learned counsel for the petitioners.

Having regard to the facts and circumstances of the case, and in view of the agreement entered into by the first petitioner with the Municipality, Nalgonda, surrendering his lands for laying the 60 feet wide road on payment of suitable compensation, and in view of the disputed questions involved in this writ petition, it would be suffice if a direction be given to the petitioners to make a representation to the respondents 2 to 4 for payment of compensation and on any such representation being made by the petitioners, the respondents 2 to 4 are directed to consider the case of the petitioners for payment of compensation in accordance with law if the lands of the petitioners are acquired for laying the 60 feet wide road, and if the petitioners are able to prove their title over the said property, as expeditiously as possible.

With the above direction, the writ petition is disposed of. No costs.

2004. *SMT. T. MEENA KUMARI, J.*

KVSN/MHN

To

- 1 The Secretary to Govt., Municipal Administration & Urban Development Dept., Secretariat, Hyderabad.
- 2 The District Collector, Nalgonda.
- 3 The Chairman, Nalgonda Municipality, Nalgonda.
- 4 The Commissioner, Nalgonda Municipality, Nalgonda.

5 Two CCs to the G.P for Land Acquisition, High Court Buildings, Hyderabad

6 Two C D copies.